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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,059	12/31/2003	Richard A. Daigle	19134-1B	1289
7590 01/27/2006				
Clinton R. Stuart		EXAMINER		
P.O. Box 4412		OKEZIE, ESTHER O		
Baton Rouge, LA 70821-4412		ART UNIT PAPER NUMBER		
		3652		

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/751,059	DAIGLE, RICHARD A.	
	Examiner	Art Unit	
	Esther O. Okezie	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-21 and 23-26 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of claims 15-26 in the reply filed on October 26th 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "said side flaps" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Lapoint, Jr et al US 5,323,922. Lapoint discloses a method for stacking fill material on pallets for efficient loading aboard transport vehicles, using a forklift (col. 6, lines 31-37) and slingbags (container 10 with bottom wall 20, side walls 12,14,16, 18; shown in figure 12, “the blank, or pattern, that can be used to form the bag-like container of FIG. 10” col. 5, lines 60-65; col. 9, lines 28-35) wherein each of said slingbags comprises a center panel (central zone 79 which forms the bottom of the container; col. 6, lines 12-15; col. 9, lines 28-35) sized to fit atop said pallet (col. 8, lines 15-20), a plurality of side panels (12,14,16,18; col. 5, lines 60-63), a plurality of ties (46, 54, 67; fig 7; col. 6, lines 51-68), and a plurality of lifting loops (48); comprising the steps of : placing said center panel of said slingbag on said pallet (col. 8, lines 15-20); stacking fill material onto said pallet to a height less than or equal to the approximate height of side flaps (60) of said said slingbag when said side flaps are folded up (col. 6, lines 54-65); folding up said side flaps of said slingbag (figs. 10 and 11); and securely fastening said ties of said slingbag (col. 6, lines 54-65; fig. 11).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-21 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lapoint Jr. et al.
3. Re claim 16, Although Lapoint teaches fabricating the inner and outer layers of the container with polypropylene, Lapoint does not disclose wrapping the slingbag with polyethylene. It would have been obvious to one of ordinary skill in the art at the time of the invention to wrap a container in a flexible material such as polyethylene to prevent leakage or to keep water out of the pallets.
4. Re claim 17, Lapoint teaches using a forklift to grip the container by lifting loops (48) in order to transport the container. It would have been obvious to one of ordinary skill in the art at the time of the invention to load the pallet aboard any transport machine including forklifts, since forklifts allow large amounts of material to be moved at once.
5. Re claim 18, Although Lapoint teaches fabricating the inner and outer layers of the container with polypropylene, Lapoint does not disclose wrapping the slingbag with polyethylene or loading pallets atop one another. It would have been obvious to one of ordinary skill in the art at the time of the invention to wrap a container in a flexible

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material such as polyethylene to prevent leakage or to keep water out of the pallets and to allow for storage of and to stack pallets atop one another to allow for storage.

6. Re claim 19, Lapoint discloses a method for efficiently loading fill material on pallets for efficient loading aboard transport vehicles, using a forklift (col. 6, lines 31-37) and slingbags (container 10 with bottom wall 20, side walls 12, 14, 16, 18; shown in figure 12, "the blank, or pattern, that can be used to form the bag-like container of FIG. 10" col. 5, lines 60-65; col. 9, lines 28-35) wherein each of said slingbags comprises a center panel (central zone 79 which forms the bottom of the container; col. 6, lines 12-15; col. 9, lines 28-35) sized to fit atop said pallet (col. 8, lines 15-20), a plurality of side panels (12, 14, 16, 18; col. 5, lines 60-63), a plurality of ties (46, 54, 67; fig 7; col. 6, lines 51-68), and a plurality of lifting loops (48); comprising the steps of : placing said center panel of said slingbag on said pallet (col. 8, lines 15-20); stacking fill material onto said pallet to a height less than or equal to the approximate height of side flaps (60) of said said slingbag when said side flaps are folded up (col. 6, lines 54-65); folding up said side flaps of said slingbag (figs. 10 and 11); and securely fastening said ties of said slingbag (col. 6, lines 54-65; fig. 11); deploying said loaded container from said pallet using a single point pick -up to grasp said lifting loops of said sling bag (col. 6, lines 28-37).

Lapoint does not disclose filling the containers with burlap bags. It would have been obvious to one of ordinary skill in the art at the time of the invention to fill the containers with any material that needed to be transported.

Lapoint does not disclose loading the loaded pallet onto a transport using a forklift. It would have been obvious to one of ordinary skill in the art at the time of the invention to load the pallet aboard any transport machine including forklifts, since forklifts allow large amounts of material to be moved at once.

7. Re claim 20, Although Lapoint teaches fabricating the inner and outer layers of the container with polypropylene, Lapoint does not disclose wrapping the slingbag with polyethylene or loading pallets atop one another. It would have been obvious to one of ordinary skill in the art at the time of the invention to wrap a container in a flexible material such as polyethylene to prevent leakage or to keep water out of the pallets.

Re claim 21, Lapoint does not disclose loading the loaded pallet onto a transport using a forklift. It would have been obvious to one of ordinary skill in the art at the time of the invention to load the pallet aboard any transport machine including forklifts, since forklifts allow large amounts of material to be moved at once.

8. Re claim 23, Lapoint does not specify filling the container with 60 lbs burlap bags. It would have been obvious to one of ordinary skill in the art at the time of the invention to fill the container with bags of a suitable weight depending on the capacity of the container.

9. Re claim 24, Lapoint does not specify that the pallet be made of wood. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a wood pallet since wood pallets are well known prevalent in the art.

Re claim 25, Lapoint discloses stacking fill material to a height less than or equal to the approximate height of the side flaps of the container when the side flaps are

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folded up (figs 10 and 11; col. 8, lines 29-51). Lapoint does not specify filling the container with burlap bags. It would have been obvious to one of ordinary skill in the art at the time of the invention to fill the containers with any material that needed to be transported.

10. Re claim 26, Lapoint does not specify stacking 56 burlap bags onto the pallet. It would have been obvious to one of ordinary skill in the art at the time of the invention to fill the container with a suitable number of bags depending on the capacity of the container.

Allowable Subject Matter

Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lapoint, III US 6,000,604.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO 1/20/06



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